

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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LATOYA NEWKIRK,

Plaintiff,

-against- Index No.: CV-17-2960

COUNTY OF SUFFOLK, CHRISTOPHER A. MCCOY, in his  
official and individual capacities, and  
MARK PAV, in his official and individual  
capacities,

Defendants.

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100 Veterans Memorial Highway

Hauppauge, New York

March 16, 2020

12:56 P.M.

DEPOSITION of MICHAEL BIEBER, a  
Non-Party Witness herein, taken by the  
Plaintiff, pursuant to Article 31 of the Civil  
Practice Law and Rules of Testimony, and  
Consent, held at the above-mentioned time and  
place, before Debra Roman, a Notary Public of  
the State of New York.

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2 A P P E A R A N C E S:

3

4 EGAN & GOLDEN, LLP

5 Attorneys for Plaintiff

6 96 South Ocean Avenue

7 Patchogue, New York 11772

8 BY: CHRISTOPHER A. BIANCO, ESQ.

9

10 MICHAEL J. BROWN, P.C.

11 Attorney for Plaintiff

12 320 Carleton Avenue

13 Central Islip, New York 11722

14 BY: MICHAEL J. BROWN, ESQ.

15

16 SUFFOLK COUNTY ATTORNEY'S OFFICE

17 Attorney for Defendants

18 100 Veterans Memorial Highway

19 5th Floor

20 Hauppauge, New York 11788

21 BY: BRIAN C. MITCHELL, ASSISTANT COUNTY

22 ATTORNEY

23

24 ALSO PRESENT:

25 MATTHEW SKULAVIK

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FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by  
and between the parties hereto, through their  
respective counsel, that the certification,  
sealing and filing of the within examination  
will be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED  
that all objections, except as to the form of  
the question, will be reserved to the time of  
the trial;

IT IS FURTHER STIPULATED AND AGREED that  
the within examination may be signed before any  
Notary Public with the same force and effect as  
if signed and sworn to before this Court.

1

2 M I C H A E L B I E B E R, the Witness

3 herein, having been first duly sworn by a

4 Notary Public in and of the State of New

5 York, was examined and testified as

6 follows:

7 THE REPORTER: Would you

8 please state your full name for

9 the record.

10 THE WITNESS: Michael Bieber.

11 THE REPORTER: What is your

12 current address?

13 THE WITNESS: 30 Yaphank

14 Avenue, Yaphank, New York 11980.

15 EXAMINATION BY

16 MR. BROWN:

17 Q Sergeant, good afternoon. My name  
18 is Michael Brown.

19 A Good afternoon.

20 Q My name is Michael Brown. I'm the  
21 attorney for the plaintiff in this matter. I'm  
22 going to ask you a series of questions. I'm  
23 just going to ask you to let me finish the  
24 question before you give a response, so we can  
25 get a nice clear record.

1 MICHAEL BIEBER

2 The other thing I'm going to ask  
3 you to do is verbalize all your answers, because  
4 she can only take down verbal answers.

5 A Okay.

6 Q If at any point you want a break,  
7 just let Mr. Mitchell know and myself and we'll  
8 be happy to do that. The only issue is I just  
9 ask if there is a pending question that's open,  
10 just give us an answer before you take that break.

11 Fair enough?

12 A All right.

13 Q Where are you currently assigned?

14 A The First Precinct, crime section.

15 Q How long have you been in the  
16 First Precinct for?

17 A Almost five years.

18 Q When did you go to the academy,  
19 Sergeant?

20 A December 28th, 1995.

21 Q Is that when you graduated?

22 A No, I graduated in June. June of  
23 '96.

24 Q Were you on any other law  
25 enforcement before Suffolk County?

1 MICHAEL BIEBER

2 A I was a New York City Sheriff for  
3 three years.

4 Q That would have been '92 to '95.

5 A Yeah. Correct.

6 Q When you graduated in '96 from the  
7 academy, where were you assigned?

8 A I was assigned to the First Precinct.

9 Q For how long were you in the  
10 First Precinct on that tour?

11 A Six weeks.

12 Q Then where did you go after that?

13 A Then I was assigned to the  
14 Second Precinct.

15 Q How long were you in the  
16 Second Precinct for?

17 A I was in the Second Precinct until  
18 I got promoted sergeant in -- that would have  
19 been July of 2015.

20 Q In the course of your time in the  
21 Second Precinct, was it sector car or other  
22 things?

23 A Well, I relief drive, you know,  
24 for maybe a couple of years and then I was  
25 assigned to patrol. Right when I got to the

1 MICHAEL BIEBER

2 Second, I was assigned to patrol and I did that  
3 and then I got transferred to COPE at the time,  
4 and then after COPE, I got transferred to  
5 precinct crime section.

6 Q And then you got promoted to  
7 sergeant?

8 A Then I got promoted to sergeant.

9 Q And you indicated July of 2015?

10 A That's when I got promoted.

11 Q Where were you assigned as a  
12 sergeant?

13 A I was assigned to the First Precinct,  
14 135 zone.

15 Q Where is the 135 zone?

16 A Wyandanch, like, West Babylon area.

17 Q So you were a patrol sergeant?

18 A I was a patrol sergeant.

19 Q How long were you a patrol sergeant  
20 for?

21 A Probably, I'm going to guess, about  
22 two and a half to three years.

23 Q Where did you go after the 135 zone?

24 A Then I got transferred to -- it's  
25 COPE, but it's CSU. Our Community Support Unit.

1 MICHAEL BIEBER

2 Q Do you remember when you started  
3 at CSU?

4 A 2017.

5 Q Do you remember the month?

6 A I don't.

7 Q This incident that we're here for  
8 was March of '17, so does that put things in  
9 perspective?

10 A Yeah, okay. So then it was  
11 February of 2017.

12 Q So that's when you started at CSU?

13 A CSU, correct.

14 Q Did you have a group that you were  
15 responsible for?

16 A Right. I was assigned to four  
17 officers.

18 Q And who were they?

19 A Matthew Skulavik, Christopher Oddo,  
20 Christopher McCoy and Mark Pav.

21 Q And what were your responsibilities?

22 A To supervise the units, oversee  
23 their arrests, all their paperwork, all the  
24 assignments. Make sure that I divide them up  
25 and issue them. All the community complaints



1 MICHAEL BIEBER

2 would come in, so I would just divert the work,  
3 you know, evenly.

4 Q Did you have an office in the  
5 precinct?

6 A Yeah. It was CSU office.

7 Q Where is that located?

8 A In the basement.

9 Q As the sergeant, would you go out  
10 on patrol as well, or you would stay in the  
11 office, or a combination of the two?

12 A I would do both.

13 Q Did you have a meeting with the  
14 FBI at all?

15 A I had just that proffer.

16 Q There was one proffer or more than  
17 that?

18 A Just one.

19 Q And was that at the U.S. Attorney's  
20 Office in Central Islip?

21 A I believe so.

22 Q And you had your attorney,  
23 Paul Linzer with you?

24 A I don't recall his name.

25 Q Do you recall an agent Winiker and

1 MICHAEL BIEBER

2 Doyle?

3 A I don't recall.

4 Q Were they two FBI agents or more  
5 or less?

6 A I believe, there were two.

7 Q One female and one male?

8 A Yeah. I believe, one female and  
9 one male and, I believe, Lara.

10 Q Lara Gatz, the U.S. Attorney?

11 A Correct.

12 (Discussion held off the  
13 record by Mr. Brown.)

14 Q Do you know how long this meeting  
15 lasted?

16 A Approximately an hour.

17 Q Did Internal Affairs ever  
18 interview you with regards to this?

19 A They never interviewed me.

20 Q How long had you known McCoy at  
21 the time of this incident?

22 A Approximately, like, a month.

23 Q Had you known him before you  
24 became the sergeant of CSU?

25 A I didn't know him. I knew he was

1 MICHAEL BIEBER

2 an officer in the precinct.

3 Q Had you ever had conversations,  
4 socialize, anything with him prior to you being  
5 the sergeant?

6 A No.

7 Q At the time of the incident,  
8 March 16th of 2017, how long were you his sergeant  
9 for?

10 A Like, approximately, a month.

11 Q How would you describe Officer McCoy?

12 MR. MITCHELL: I object.

13 You can answer.

14 A He was a good worker.

15 Q How about his demeanor?

16 A I would -- I would think he's a  
17 regular guy. His demeanor was good. No issues.

18 Q Sergeant, when somebody stops an  
19 individual, obviously, they gather information,  
20 they have information on an individual, are they  
21 able to use that information to pursue for  
22 personal reasons?

23 A When you say stop, can you just  
24 clar --

25 Q Sure.

1 MICHAEL BIEBER

2 If somebody makes a car stop, for  
3 instance --

4 A Okay.

5 Q -- and they obtain a name, an  
6 address, date of birth, information like that,  
7 is it within the rules and procedures of the  
8 Suffolk County Police Department that they can  
9 utilize that for any other purpose other than  
10 law enforcement?

11 MR. MITCHELL: I object to  
12 form. You can answer.

13 A They can't use it for personal  
14 information.

15 MR. MITCHELL: Cannot?

16 THE WITNESS: Cannot.

17 BY MR. BROWN:

18 Q And if you determine as a sergeant  
19 that they were doing that, what, if anything,  
20 would you do?

21 A I would put an immediate stop to  
22 it and take disciplinary action against them.

23 Q When you say "disciplinary action,"  
24 what does that mean?

25 A I would write them up on a form.

1 MICHAEL BIEBER

2 Q Is there a particular form that  
3 you are required to use?

4 A I believe, there is one. I never  
5 did one but...

6 Q When I ask a particular form, not  
7 for that exact scenario. But just in general  
8 are there forms?

9 A Yeah, if you were going to take  
10 action against somebody. It can be a verbal  
11 reprimand. It depends on the seriousness of it.

12 Q All right. Just walk me through  
13 the different types of actions that you can take  
14 as a sergeant?

15 A If there are certain things that  
16 I'm not agreeing with or something against the  
17 rules and procedures, okay, depending on how  
18 serious it is, I can take a verbal -- do a  
19 verbal reprimand, or I can document it  
20 officially on paper, okay, and then let my boss  
21 know.

22 Q So if it's a verbal reprimand,  
23 it's just --

24 A It's just a verbal reprimand.  
25 Don't do that again. Depending on the seriousness.

1 MICHAEL BIEBER

2 Q There is no record of that?

3 A Correct.

4 Q If you were going to document it  
5 on paper, how would you do that?

6 A There is a form for it. I don't  
7 know specifically, because I've never done one.

8 Q The form, have you seen the form?

9 A I have never personally seen it.  
10 I know there is one that you would document it  
11 on a form.

12 Q When you document it, what happens  
13 to that form?

14 A I would hand it to my boss at that  
15 time.

16 Q Who was your boss at that time?

17 A Being a CSU sergeant, it would  
18 be -- at the time, it would be Lieutenant Fanning  
19 who is retired.

20 Q Lieutenant Fanning was a lieutenant  
21 in the First Precinct?

22 A Correct.

23 Q Was he assigned to a specific area  
24 in the First Precinct?

25 A He at the time was the 120 command

1 MICHAEL BIEBER

2 lieutenant who oversees CSU precinct crime  
3 section and gang unit.

4 Q So the form that we talked about,  
5 if it was done, that would have been sent  
6 directly to Lieutenant Fanning?

7 A Correct. If I had to do a form  
8 like that, yes.

9 Q Since you've become a sergeant in  
10 July of 2015, have you ever used that form  
11 before?

12 A No.

13 Q When you were the 135 zone  
14 sergeant, how many officers were you responsible  
15 for?

16 A Well, I was -- let me just -- I  
17 had six sector cars. Three were double. All  
18 right. So --

19 Q Would that be nine?

20 A Nine. But when I came first out,  
21 I was also responsible for the 136 zone, because  
22 we didn't have a 136 supervisor.

23 Q How long were you also responsible  
24 for the 136 zone?

25 A Approximately six months.

1 MICHAEL BIEBER

2 Q How many officers were you  
3 responsible for in the 136 zone?

4 A It's either five or six sector  
5 cars. Okay. That would be only single  
6 officers. So it would be an additional five or  
7 an additional six.

8 Q Depending upon how many were on?

9 A Well, depending how many cars  
10 there are. Offhand, I don't know if it was five  
11 or six officers additional.

12 Q So just so I understand. For the  
13 first six months of being promoted to sergeant,  
14 you were responsible for the 135 and the 136  
15 cars?

16 A Correct.

17 Q Then after about six months, you  
18 were then exclusively responsible for the 135  
19 zone?

20 A Correct. Because they hired a  
21 supervisor and we got a 136 supervisor.

22 Q That continued until February of  
23 2017 when you went to CSU?

24 A Correct.

25 Q Okay. Is there any rules or



1 MICHAEL BIEBER

2 regulations in terms of wearing uniform while on  
3 duty?

4 A In the CSU unit?

5 Q Yes. Suffolk County Police  
6 Department and, specifically, to the CSU unit.

7 A Right. No, not specifically.

8 Q How about as a member of the  
9 Suffolk County Police Department?

10 A Repeat that again. Say that again.

11 Q Sure.

12 Are there any rules or regulations  
13 in regards to wearing a uniform while on duty,  
14 as a member of the Suffolk County Police  
15 Department?

16 A Not the CSU unit. You asked the  
17 whole Suffolk County Police Department. In  
18 patrol --

19 Q Yes.

20 A -- because you're not being clear.  
21 In patrol, yes, they have to wear a uniform in  
22 patrol.

23 Q If somebody were in CSU, are they  
24 not required to wear their uniform?

25 A They're not required.

1 MICHAEL BIEBER

2 Q That's where the plain clothes  
3 comes into play?

4 A Correct.

5 Q Sir, I want to bring your  
6 attention to March 16, 2017, which is the  
7 subject of this lawsuit.

8 Do you recall if you were working  
9 that day?

10 A I was working.

11 Q Do you recall what your tour was?

12 A Eight to four tour.

13 Q Do you recall seeing Officer McCoy  
14 that day?

15 A I saw him.

16 Q Do you remember when the first  
17 time you saw Officer McCoy was?

18 A When he arrived on duty.

19 Q What time was that?

20 A Approximately 8:00.

21 Q Do you recall if Officer Pav was  
22 there as well?

23 A He was.

24 Q Do you recall what it is that they  
25 were assigned to do that day?

1 MICHAEL BIEBER

2 A There was no specific assignment  
3 that day. They were just going to go and do  
4 routine CSU -- COPE at the time, activities.

5 Q Did they tell you what exactly it  
6 is that they're doing? How does that transpire?

7 A Unless we have a specific  
8 assignment, which some days we do. We would  
9 have a specific assignment. A lot of days we  
10 didn't, they would go out, okay, and just look  
11 for activity based on tips that they get. Just  
12 looking to -- anything where there is crime.  
13 That specific day, I did not give them any  
14 specific assignment, so they were going to go  
15 out and do routine CSU activities.

16 Q Did there come a time when you  
17 learned that they made an arrest?

18 A I heard them over the radio that  
19 they made an arrest.

20 Q What was it that you heard?

21 A Just that -- 132, which that's our  
22 code for making an arrest.

23 Q When was the next time you either  
24 heard from them or saw them? Meaning McCoy and  
25 Pav.

1 MICHAEL BIEBER

2 A Well, I was out on the road, so  
3 when I got back into the precinct, I did see  
4 them come downstairs into the CSU office and I  
5 saw them at that time.

6 Q Do you remember when that was around?

7 A I mean if I had -- I really don't  
8 know specifically. It could have been 11:30,  
9 but I'm not sure.

10 Q Had they made the arrests already  
11 at that point?

12 A I believe so.

13 Q You said you were on the road.  
14 What were you doing on the road?

15 A I was patrolling my usual near  
16 Straight Path and, like, Merritt. We had a lot  
17 of problems in those areas. So my daily routine  
18 would be to go up there and that's where I was.

19 Q Were you patrolling by yourself?

20 A By myself.

21 Q In a marked unit?

22 A Marked unit.

23 Q In uniform?

24 A Yeah, in uniform.

25 Q So at some point you said you

1 MICHAEL BIEBER

2 returned to the precinct and downstairs is where  
3 you saw Officer McCoy?

4 A Correct.

5 Q Was Officer Pav with him?

6 A I can't recall specifically, but  
7 they would all switch up and down. They will  
8 come down and take off their -- you know, get  
9 comfortable. Sometimes the belt will come off.  
10 They will come downstairs to eat.

11 Q When you say "belt," gun belt?

12 A Gun belt.

13 Q You said sometimes they will come  
14 down to eat.

15 Do you remember seeing them that  
16 day eating?

17 A I don't recall that.

18 MR. MITCHELL: When you say  
19 you don't recall, does that mean  
20 you don't recall if they were or  
21 not?

22 THE WITNESS: I don't  
23 recall them eating.

24 MR. MITCHELL: Right. What  
25 I'm saying is that you're saying

1                   MICHAEL BIEBER

2                   you don't recall if they were  
3                   eating or not?

4                   THE WITNESS: Correct.  
5                   Right. I don't recall them if  
6                   they were eating or not.

7                   MR. BROWN: Right.

8       BY MR. BROWN:

9               Q       You said at some point you noticed  
10            them. For how long of a period did you see  
11            Officer McCoy?

12           A       Just quick. I mean five, ten  
13            minutes.

14           Q       Did you have any conversations with  
15            him?

16           A       I believe, I asked him, like, what  
17            do you have. He just told me that he had a  
18            subject under arrest. I believe, it was, like,  
19            for marijuana and a possible warrant.

20           Q       Anything else he told you?

21           A       No.

22           Q       Did you ask him any other questions?

23           A       No.

24           Q       What happened then?

25           A       Then he went back upstairs and

1 MICHAEL BIEBER

2 just my assumption would be to keep processing  
3 the arrest.

4 MR. MITCHELL: Don't assume.

5 A He left the office.

6 Q Do you remember the next time you  
7 saw Officer McCoy that day?

8 A I didn't see him after that.

9 Q So that one five or ten-minute  
10 interaction is the only time that day that you  
11 had personal conversation with him?

12 A That's correct.

13 Q And you didn't see him any other  
14 time that day?

15 A I didn't.

16 Q Before he leaves for the day, does  
17 he need to check in with you?

18 A No.

19 Q Do you know what time he left that  
20 day?

21 A I don't.

22 Q After you had that conversation  
23 with him, Sergeant, what did you do the rest of  
24 the day, do you remember?

25 A Yeah, I then went back on the road

1 MICHAEL BIEBER

2 for a short period of time, but I had an  
3 assignment at 2:00, okay. I knew that day I had  
4 a planned assignment to help out narcotics on an  
5 assignment that they had.

6 Q What were you going to do that day?

7 A Just assist them on whatever they  
8 needed. And I told -- at the time, I told  
9 Officer McCoy and Officer Pav, that they were  
10 going to assist, because that day I was aware --  
11 I knew that Officer Skulavik and Officer Oddo  
12 was going out to the range that day. So this  
13 was preplanned that those two were going to help  
14 out.

15 Q When did you tell them that they  
16 were going to help out?

17 A That day or prior?

18 Q No, prior.

19 A It could have been the day before.

20 Q Did Pav and McCoy agree to help out?

21 A Yes.

22 Q You said you went out on the road  
23 for a short period. What is it that you did on  
24 the road?

25 A Just routining on Straight Path



1 MICHAEL BIEBER

2 and just checking the problem areas on  
3 Straight Path and Merritt.

4 Q And at some point, you said you  
5 came back for a 2:00 p.m. assignment?

6 A Correct.

7 Q Where did you go for that 2:00 p.m.  
8 assignment?

9 A I was in the parking lot and  
10 waiting to meet up with narcotics and then we  
11 went to an assignment on Sunrise Highway at  
12 Pep Boys.

13 Q Did narcotics come out to the  
14 parking lot with you?

15 A Yes.

16 Q Did either McCoy or Pav come out  
17 to the parking lot?

18 A I never saw Officer McCoy. I  
19 never saw him. I don't know if he came out. I  
20 never saw Officer McCoy.

21 Q What about Pav?

22 A Pav came out at, approximately,  
23 2:00. He was out in the parking lot.

24 Q Was he in uniform?

25 A I don't recall.

1 MICHAEL BIEBER

2 Q Were you in uniform?

3 A I was in uniform.

4 Q Did Pav go on the assignment with  
5 you?

6 A He didn't go specifically with me,  
7 but he did come out on the assignment with  
8 Officer Clark, because he was the incoming --  
9 the next tour coming on doing a 4:00 to 12:00.

10 Q Did you go to this assignment by  
11 yourself?

12 A I did.

13 Q Did you see how Pav came out of  
14 the precinct at 2:00; in other words, which door  
15 he used?

16 A No.

17 Q Now, you mentioned that McCoy was  
18 directed sometime prior to come to this 2:00 p.m.  
19 assignment.

20 Did you have any conversations  
21 with Pav about where McCoy was?

22 A I did. I knew that he was  
23 processing the arrest and I knew he had to leave  
24 early that day. That was -- earlier. He said  
25 that he can't stay too late. And at that time,

1 MICHAEL BIEBER

2 I asked him and he said he's finishing up the  
3 arrest.

4 Q You asked Pav?

5 A Yeah, like, well, at that time, I  
6 saw Officer Clark come out and Officer Pav  
7 explained that Officer Clark is going to come  
8 out and Officer McCoy is finishing the arrest.

9 Q Was there any more conversation  
10 about finishing the arrest, in terms of where he  
11 was, what it was about, anything else?

12 A No.

13 MR. MITCHELL: Can I just  
14 clarify. You're using pronouns.  
15 You said "he" a couple of times.

16 As far as the first time  
17 when you said "he had to leave  
18 early that day" --

19 THE WITNESS: Officer McCoy  
20 had to leave early that day.

21 MR. MITCHELL: That's fine.

22 THE WITNESS: And the  
23 narcotics operation, instead of  
24 going at 3:00 got delayed and  
25 that's why Officer McCoy -- my

1 MICHAEL BIEBER

2 understanding, he had to leave  
3 early and he couldn't go.

4 BY MR. BROWN:

5 Q What time did McCoy tell you he  
6 had to leave by?

7 A He didn't give me a specific time.  
8 He just said he had to leave early. He just  
9 couldn't stay late.

10 Q I just want to make sure.  
11 There was only one time on March 16th  
12 that you saw McCoy and that was downstairs?

13 A Correct.

14 Q By the CSU unit?

15 A Correct.

16 Q You never saw him on the upstairs?

17 A No.

18 Q What is a memo book page?

19 A It's something that the officers --  
20 they use to notate their activity for the day.

21 Q Is that something that they are  
22 required to use?

23 A They are required.

24 Q And who requires them to use that?

25 A Suffolk County Police Department.

1 MICHAEL BIEBER

2 Q When you say they are required to  
3 use, on a tour basis; in other words, every tour  
4 they have to write a memo book?

5 A Correct.

6 Q What are they required to put in  
7 on the memo book?

8 A All their activity for their tour.

9 Q Such as?

10 A A V&T stop, any kind of specific  
11 assignment that they were assigned to, like,  
12 sitting on a stop sign or checking an area where  
13 there is constant drug activity. Anything of  
14 real importance they would put in.

15 Q If somebody were not using a memo  
16 book page, would you take any action?

17 A I would.

18 Q What action would you take?

19 A I would give them a verbal  
20 reprimand to tell them to start doing it.

21 Q If they didn't comply with the  
22 verbal reprimand, what would you do then?

23 A Then I would have to write them up  
24 on paper. Disciplinary action.

25 Q On the form we talked about earlier?

1 MICHAEL BIEBER

2 A Correct.

3 Q Do you know the number of the  
4 form, by any chance?

5 A I don't.

6 Q Sergeant, what is a prisoner activity  
7 log?

8 A That's a log that every prisoner  
9 when they are arrested, it's used to notate the  
10 activity that you are dealing with the person.

11 Q Just looking at what is in front  
12 of you, Plaintiff's 2, which was previously  
13 marked on March 11th, 2020, do you recognize  
14 that document?

15 A I recognize it to be a prisoner  
16 activity log that we use.

17 Q And does your signature appear  
18 anywhere on that document?

19 A I don't believe so.

20 Q I don't know if this is you. Just  
21 look at the supervising officer over there.

22 Is that you?

23 A That's not me.

24 Q That's not you. Okay.

25 What's your TIN number? I'm

1 MICHAEL BIEBER

2 sorry.

3 A 1273.

4 Q That's Sergeant Burke?

5 A Burke, correct.

6 Q On that date, do you know what  
7 Sergeant Burke was responsible for?

8 A He's the desk sergeant.

9 Q This document pertains to an  
10 arrestee, correct?

11 A Correct.

12 Q What arrestee does that pertain to?

13 A A Latoya Newkirk.

14 Q Now, there seems to be entries on  
15 the prisoner activity log.

16 At what point in time is the  
17 individual supposed to make that entry?

18 MR. MITCHELL: Which entry  
19 are you referring to?

20 Q And when I'm saying "point in  
21 time," --

22 A Yeah.

23 Q -- I am referring now to the  
24 observations of an arrestee.

25 A Well, there has to be an entry

1 MICHAEL BIEBER

2 every half an hour.

3 Q When they make the entry, do they  
4 make it at the same time as making the  
5 observation or can it be done the next day or a  
6 day later?

7 A No. It has to be done at that time.

8 Q What exactly are they supposed to  
9 note? It says, Time. It says, Remarks. It  
10 says, Officer.

11 A Pretty much what the prisoner is  
12 doing. So if the prisoner is sitting, you put  
13 sitting. If the prisoner is standing, you would  
14 put standing. If the prisoner is irate, you put  
15 prisoner irate.

16 Q Are they supposed to note the time  
17 they make this observation?

18 A That's correct.

19 Q Do they put their TIN number?

20 A Yes.

21 Q When does the supervisor, in this  
22 case, obviously, Sergeant Burke you said, when  
23 do they sign the document? Is that when they do  
24 the desk interview?

25 A Correct. When the prisoner is



1 MICHAEL BIEBER

2 brought into the precinct, the desk sergeant or  
3 whatever sergeant is there that is going to log  
4 in will sign that form at that time.

5 Q On the bottom of Page 2, it notes,  
6 Supervisor review, what is that?

7 A That's the supervisor after the  
8 person is transferred, which this could be the  
9 next day. The supervisor then reviews the whole  
10 form to make sure everything is there and then  
11 they sign it.

12 Q Do you know who the supervisor is  
13 that signed this?

14 A I don't. I don't.

15 Q Would it necessarily be a sergeant  
16 or higher?

17 A It would be a sergeant or higher,  
18 correct.

19 Q If somebody that you're supervising  
20 makes a notation that they did not observe  
21 personally, what, if anything, would you do?

22 A You mean, had I known this?

23 Q Yes.

24 A I would definitely talk to them.  
25 Give them a reprimand and be, like, you have to

1 MICHAEL BIEBER

2 observe that and make sure that's your document  
3 and it's something that you observed.

4 Q How significant of an infraction,  
5 if it is, would that be?

6 A Well, it's serious.

7 Q Would it be serious to the point  
8 where it would cause you to file that form that  
9 you talked about earlier?

10 A I would have to make that decision  
11 at that time.

12 Q How busy would you characterize  
13 the First Precinct on March 16, 2017?

14 MR. MITCHELL: I object,  
15 but you can answer.

16 A Well, I'll be honest, I was  
17 downstairs. So the First Precinct is usually  
18 busy, but I can't specifically state that it was  
19 very busy that day.

20 MR. MITCHELL: When you say  
21 that, you don't know if it was or  
22 not?

23 Q You mean with prisoners?

24 THE WITNESS: Yeah, I don't  
25 know if it was or not.

1 MICHAEL BIEBER

2 BY MR. BROWN:

3 Q You mean with prisoners?

4 A No, I am just saying in general.

5 Q Let me ask you a question.

6 Do you remember speaking to the FBI

7 on May 30th?

8 A I don't know the specific date.

9 Q But you only had one meeting with  
10 the FBI?

11 A Correct. Yeah.

12 Q I just want to read a paragraph  
13 that they noted and you tell me if that's what  
14 you told them.

15 A Okay.

16 Q Bieber stated that during the  
17 hours when the misconduct allegedly occurred,  
18 the First Precinct was extremely busy with a  
19 large amount of supervision.

20 A Correct. That's why I asked you.  
21 I didn't know what you were --

22 Q That's fine. So just clarify that.

23 A Okay.

24 Q Did you say that, by the way?

25 A I did. I did.

1 MICHAEL BIEBER

2 Q What did you mean by that?

3 A What I mean is, that time of the  
4 day, it's the most supervision. Everybody is  
5 in. Meaning, inspectors, you know, lieutenants,  
6 they're all in. All right. That's why I didn't  
7 know if you meant was it busy with prisoners.

8 Q Okay. When you say "that time,"  
9 are you talking about the day tour?

10 A The day tour. That time of the  
11 day, that afternoon is most of the time, it's a  
12 lot of supervision.

13 Q So tell me about the supervision.  
14 Obviously, you're there.

15 A Well, I'm there. On the day tours,  
16 you have lieutenants.

17 Q How many lieutenants?

18 A Well, you're going to have the  
19 patrol lieutenant and then you're going to have  
20 the 120 command lieutenant.

21 Q Which would have been your  
22 lieutenant, Lieutenant Fanning?

23 A Correct.

24 Q Anybody else?

25 A You're going to have captain.

1 MICHAEL BIEBER

2 You're going to have the inspector and deputy  
3 inspectors are in.

4 Q How many deputy inspectors are there?

5 A One.

6 Q And who is that?

7 A I believe, it was Inspector O'Reilly.  
8 Deputy Inspector O'Reilly.

9 Q How many inspectors are there?

10 A One.

11 Q And who would that have been?

12 A Inspector Matt Lewis.

13 Q So you had two lieutenants, a  
14 captain, a deputy inspector and an inspector?

15 A Correct.

16 Q Anybody else?

17 A No, that's it.

18 Q I assume that's in contrast to a  
19 night tour, for instance?

20 A That's correct.

21 Q When you meant extremely busy with  
22 a large amount of supervision, in addition to  
23 that, are there more officers around the  
24 precinct at that time compared to other times?

25 A Each time is different, so that's

1 MICHAEL BIEBER

2 why I can't really say that.

3 Q How about arrestees?

4 A All different times of the day.

5 Q What I'm saying, in particular,  
6 would that time period be more so than other  
7 times?

8 A No, I wouldn't say that.  
9 Sometimes the night tours are even busier with  
10 prisoners.

11 Q Now, are you familiar, Sergeant,  
12 with the precinct juvenile room?

13 A I am.

14 Q What is that room used for?

15 A Well, it's used mainly for detectives  
16 to interview juveniles and process juveniles.  
17 Basically, any time they bring a juvenile in,  
18 whether it's, you know, as a complainant, they  
19 usually use that room.

20 Q Why do they use that room?

21 A Because it's designated for  
22 juveniles.

23 Q Is it used for any other reason?

24 A It is. It's used to interview  
25 complainants on different -- non-juvenile and

1 MICHAEL BIEBER

2 sometimes to bring prisoners in there to debrief  
3 or take confessions, because we want to take  
4 them out of the original arrest processing room,  
5 because it's usually, you know, crowded or other  
6 prisoners, and we don't want them to hear.

7 Q Let's take females for a minute.

8 If you were going to take a female  
9 into the juvenile room, is there any policies or  
10 procedures that Suffolk County Police Department  
11 has?

12 MR. MITCHELL: I object to  
13 the form. You can answer.

14 A There is --

15 Q I am going back to March 2017.

16 A There is a policy now. There was  
17 no policy back then.

18 Q What is the policy now?

19 A Well, that --

20 MR. MITCHELL: I object,  
21 but you can answer.

22 A I believe there is two officers now.

23 Q With a female?

24 A Correct.

25 Q And is that just on the juvenile

1 MICHAEL BIEBER

2 facility room or other areas as well?

3 A Well, just taking them anywhere.

4 I believe, it's everywhere.

5 Q The policy before this incident  
6 was what? Or there was no policy?

7 A There was. If you were going to  
8 debrief a prisoner, you could have debriefed  
9 just one officer.

10 MR. MITCHELL: In other  
11 words, one officer could debrief a  
12 female prisoner by himself?

13 THE WITNESS: Correct.

14 MR. MITCHELL: Okay.

15 BY MR. BROWN:

16 Q Now, do you remember saying to the  
17 FBI that you thought it was unlikely Pav knew of  
18 McCoy's conduct when it occurred?

19 A I said that, yeah.

20 Q What led you to give that statement?

21 A I just never thought Pav would be  
22 a person like that.

23 Q In contrast to McCoy, was it  
24 surprising to you that McCoy did do that conduct?

25 A Very surprised on both.



1 MICHAEL BIEBER

2 Q And going back to Plaintiff's 2,  
3 which is the prisoner activity log, who is  
4 responsible for making the entries on the  
5 prisoner activity log?

6 A The arresting officers.

7 Q In this particular instance, do  
8 you know who would have been responsible for  
9 making the entry?

10 A On this arrest?

11 Q Yes.

12 A It would have been Officer McCoy  
13 and Officer Pav. They're both responsible.

14 Q So does it depend on who is with  
15 the arrestee at any given moment?

16 A Yes, because sometimes somebody  
17 could be printing. Like, one officer could be  
18 printing. Another one is doing the paperwork,  
19 so at that entry time, they each can put their  
20 own entry on that half an hour. It depends on  
21 what officer is viewing something and  
22 documenting it in. So, when two officers make  
23 an arrest, they both are responsible for it.

24 Q I just want to just be clear.  
25 The entry that's noted on the

1 MICHAEL BIEBER

2 prisoner activity log, that has to be personal  
3 knowledge? They actually have to be observing  
4 it?

5 A Yeah. Correct.

6 Q How would you describe McCoy's  
7 relationship with Pav?

8 A Good. No problems.

9 Q How close would you describe the  
10 two of them?

11 A Just normal to every day partner.

12 Q How about with Skulavik, how would  
13 you describe his relationship with McCoy?

14 A The same. Friendly, got along.  
15 It was a small unit. No problems.

16 Q How about Oddo?

17 A Same thing. No problems.

18 Q Now, did you also tell the FBI  
19 that you had heard rumors around the  
20 First Precinct that Newkirk had setup McCoy?

21 A Exactly that, yeah. I heard  
22 rumors. Just people talking.

23 Q Who said that she had setup McCoy?

24 A Just cops, in general. Just talking.

25 Q Do you remember which police

1 MICHAEL BIEBER

2 officer said that?

3 A No.

4 Q Do you remember what it is that  
5 they said?

6 A Exactly that. That hey, I think  
7 she must have, because, I think, people were  
8 really shocked.

9 Q Do you remember when you had heard  
10 these rumors?

11 A Right after everybody found out  
12 that this happened.

13 Q Do you know what those were based  
14 on, those rumors?

15 A I think it was just based on usual  
16 gossip that people just couldn't believe and  
17 were shocked and just felt that. Nobody had no  
18 direct knowledge of that.

19 MR. BROWN: Just give me  
20 one minute. Excuse me one second.

21 THE WITNESS: Sure.

22 (Discussion held off the  
23 record by Mr. Brown.)

24 BY MR. BROWN:

25 Q Sergeant now, we talked about some

1 MICHAEL BIEBER

2 of the policies. In terms of transport of a  
3 female arrestee, in March of 2017, were there  
4 any policies in regards to transporting of a  
5 female arrestee?

6 A Yes, the policy of a female.

7 Q Female arrestee.

8 A If it's a male police officer, you  
9 need another male. But a female can transport  
10 by herself. A female police officer can  
11 transport both a male or a female by themselves.

12 Q Do you know why there is a  
13 requirement of two males with a female arrestee?

14 MR. MITCHELL: I object.

15 You can answer.

16 A Yeah. Repeat that.

17 Q Sure. I hope I remember it.

18 A Yeah.

19 Q Do you know why there was a policy  
20 that you needed two males with a female arrestee?

21 A I don't know why they would make  
22 that policy.

23 Q In terms of searching a female  
24 arrestee, was there a policy?

25 A Yeah, a male -- the policy is a

1 MICHAEL BIEBER

2 male shouldn't search a female unless it's an  
3 emergency. They need to do it for safety  
4 reasons, if they see something.

5 Q Short of that safety reason,  
6 emergency situation, what was the policy?

7 A You're talking about the Suffolk  
8 County policy is --

9 Q Yes.

10 A -- male officers don't search a  
11 female -- a prisoner unless it's an exigent  
12 circumstance.

13 Q Okay. How is it that a female  
14 would then be searched?

15 A Just to get rid of the problem.  
16 So if --

17 Q No, no. You're not listening.  
18 I'm sorry.

19 A Then I'm not understanding. Yeah.  
20 Go ahead.

21 Q Other than an emergency exigent  
22 circumstance, how then would a female arrestee  
23 be searched? What would the --

24 A We would call in -- we would call  
25 in a female officer. I didn't understand what

1 MICHAEL BIEBER

2 you meant. Sorry.

3 Q That's okay.

4 MR. BROWN: Off the record.

5 (Discussion held off the  
6 record.)

7 Q Do you know why they have that  
8 policy about a female, other than exigent  
9 circumstances, why a female officer would have  
10 to search a female arrestee?

11 A Well, just to avoid that whole,  
12 you know, sexual problem. I'm going to assume.

13 MR. BROWN: Okay. I have  
14 nothing further. Thank you,  
15 Sergeant.

16 MR. MITCHELL: Just real  
17 quick.

18 EXAMINATION BY

19 MR. MITCHELL:

20 Q Sergeant, you were asked earlier  
21 by Mr. Brown about supervision at the precinct  
22 during the daytime.

23 He asked you about who may be in  
24 the precinct and you listed people from an  
25 inspector down to lieutenants.

1 MICHAEL BIEBER

2 Do you recall him asking those  
3 questions?

4 A Yes.

5 Q When you were answering those  
6 questions, were you referring to specifically  
7 what the situation was on March 16th of 2017, or  
8 just in general that's how the precinct would be  
9 run?

10 A In general.

11 Q All right.

12 Do you have a specific  
13 recollection of who may have been there one way  
14 or the other --

15 A No.

16 Q -- or rank-wise on March 16, 2017?

17 A No, I do not.

18 MR. MITCHELL: That's all  
19 I've got.

20 (Discussion held off the  
21 record by Mr. Brown.)

22 (Continued on the following  
23 page to include colloquy and  
24 jurat.)

25

1 MICHAEL BIEBER

2 MR. BROWN: Okay. We're  
3 good.

4 MR. MITCHELL: All good.  
5 Thank you.

6 (TIME NOTED: 1:35 P.M.)

7

8

9

10 \_\_\_\_\_  
MICHAEL BIEBER

11

12 Subscribed and sworn to before me this

13 \_\_\_\_\_ day of \_\_\_\_\_, 2020.

14

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NOTARY PUBLIC

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C E R T I F I C A T E

I, DEBRA ROMAN, a Notary Public in and  
for the State of New York, do hereby certify:

THAT the witness(es) whose testimony is  
hereinbefore set forth, was duly sworn by me;  
and

THAT the within transcript is a true  
record of the testimony given by said  
witness(es).

I further certify that I am not related,  
either by blood or marriage, to any of the  
parties in this action; and

THAT I am in no way interested in the  
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 27th day March of 2020.

*Debra M. Roman*



DEBRA ROMAN